

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

CAPE TOWN TREATY
IMPLEMENTATION ACT OF 2004

Mr. FRIST. Madam President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 4226, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4226) to amend title 49, United States Code, to make certain conforming changes to provisions governing the registration of aircraft and the recordation of instruments in order to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, known as the "Cape Town Treaty."

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Madam President, I ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4226) was read the third time and passed.

EMERGENCY FOOD AND SHELTER
ACT OF 2004

Mr. FRIST. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 636, S. 2249.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2249) to amend the Stewart B. McKinney Homeless Assistance Act to provide for emergency food and shelter.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Madam President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2249) was read the third time and passed, as follows:

S. 2249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Food and Shelter Act of 2004".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title \$160,000,000 for fiscal

year 2005, \$170,000,000 for fiscal year 2006, and \$180,000,000 for fiscal year 2007."

SEC. 3. NAME CHANGE TO NOMINATING ORGANIZATION.

Section 301(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331(b)) is amended by striking paragraph (5) and inserting the following:

"(5) United Jewish Communities."

SEC. 4. PARTICIPATION OF HOMELESS INDIVIDUALS ON LOCAL BOARDS.

Section 316(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346(a)) is amended by striking paragraph (6) and inserting the following:

"(6) guidelines requiring each local board to include in their membership not less than 1 homeless individual, former homeless individual, homeless advocate, or recipient of food or shelter services, except that such guidelines may waive the requirement of this paragraph for any board that is unable to meet such requirement if the board otherwise consults with homeless individuals, former homeless individuals, homeless advocates, or recipients of food or shelter services."

60TH ANNIVERSARY OF THE
WARSAW UPRISING

Mr. FRIST. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 125 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Con. Res. 125) recognizing the 60th anniversary of the Warsaw Uprising during World War II.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 125) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 125

Whereas August 1, 2004, marks the 60th anniversary of the Warsaw Uprising, when against seemingly insurmountable odds and extreme hardships, Polish citizens revolted against the Nazi occupiers in Warsaw, Poland, in one of the most heroic battles during World War II;

Whereas the Warsaw Uprising was a part of a nationwide resistance against the Nazi occupation, was started by the underground Home Army, and lasted 63 days;

Whereas the Polish resistance, many of them teenagers, while heavily outnumbered and armed with mostly homemade weapons, fought bravely against the German soldiers and lost approximately 250,000 civilians and troops;

Whereas, to punish Poland for the uprising, the Nazis systematically razed 70 percent of Warsaw, including monuments, cultural treasures, and historical buildings;

Whereas the heroism and spirit of the Polish resistance are an inspiration to all peoples in their pursuit of liberty and democracy and are evident today in Polish contributions to the global war against terrorism and the more than 2,300 Polish troops currently deployed in Operation Iraqi Freedom; and

Whereas the heroic undertaking of the Polish underground represents one of the most important contributions to the Allied war effort during World War II and remains venerated in the Polish consciousness, even for the generations born after it ended: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress recognizes the 60th anniversary of the Warsaw Uprising during World War II which will forever serve as a symbol of heroism in the face of great adversity and the pursuit of freedom.

COMBATING HUMAN TRAFFICKING
IN SLAVERY

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 414, which was submitted earlier today by Senator CORNYN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 414) encouraging States to consider adopting comprehensive legislation to combat human trafficking in slavery and recognizing the many efforts made to combat human trafficking and slavery.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CORNYN. Madam President, I want to speak on the resolution that I believe will be passed by unanimous consent of the Senate which pertains to something I thought we would never be talking about now in the year 2004, and that is human slavery and trafficking in human beings.

The good work that has been done by the U.S. Congress, since, of course, the ratification of the 13th amendment in 1865 abolishing slavery and involuntary servitude, includes a remarkable tradition, and a bipartisan tradition, I might add, starting, after 1865, in 1909, when the United States Code criminalized slavery.

In 2000, the late Senator Paul Wellstone and Senator SAM BROWNBACK joined together as the lead sponsors, together with a number of other Senators and Representatives, to advance legislation to strengthen those laws, specifically the Trafficking Victims Protection Act of 2000, which was later signed into law by President Bill Clinton. That legislation was reauthorized in 2003 by a bipartisan effort and signed into law by President George W. Bush.

I expressly recognize the contributions of Senator SCHUMER, Senator GRAHAM of South Carolina, Senator LEAHY of Vermont, and Senator CLINTON, who joined in cosponsoring this resolution. Indeed, this resolution lays out the terrible tale of the fact that as many as 800,000 human beings are literally bought and sold worldwide into

some form of slavery or involuntary servitude. Approximately 16,000 of those human beings are brought into the United States each year, coerced into lives of forced labor or sexual servitude which, of course, is another way of describing slavery.

This has been a bipartisan effort. It is refreshing to know, particularly during an election year where there are differences that divide us, where we know sometimes the rhetoric gets a little overwrought, that we can come together on such an important issue.

The fact is the current administration has responded to the call by dramatically increasing efforts into devoting substantially more resources toward combating human trafficking. This has been done principally under the auspices of the civil rights division at the Justice Department which has prosecuted and convicted three times the number of traffickers over the past 3 years as had been done in the preceding 3 years, three times more in this last 3 years than had been done in the preceding 3 years.

The Department of Justice has created the Office of Special Counsel for Trafficking Issues to coordinate antitrafficking efforts. It has also published educational and awareness-raising materials and circulated them to officials across America and provided assistance to victims of this trafficking by installing among other things a toll-free hotline. Last week the Department of Justice sponsored a historic national conference on human trafficking in Tampa, FL, bringing together Federal, State, and local officials, social service agencies, and nongovernmental organizations to provide training and coordination to antihuman trafficking efforts across the country as provided in the fiscal year 2004 appropriations bill.

The problem we uncovered was brought home during a recent hearing I chaired for the Subcommittee on the Constitution, Civil Rights, and Property Rights of the Judiciary Committee. We heard testimony about the men, women, and children who continue to be trafficked into the United States. Each of these stories is tragic, disturbing, and heartrending. It is hard to imagine that this sort of thing continues to happen today. Let me mention two of them.

In January of 2004, several defendants were sentenced to prison terms ranging from 4 months to 14 years after a ring-leader of a human trafficking ring admitted to running a human trafficking operation bringing women from Central America and then holding them in this country once they were smuggled into the country. They were held against their will. Many of them were sexually assaulted. All of them were forced to work against their will until their smuggling fees were paid by their families.

Another instance involved a research assistant and his wife at a university located in my State of Texas who were

prosecuted for leading a trafficking ring that victimized young women. These young women were brought from Uzbekistan. They were lured to the United States by promises of lucrative modeling jobs, extravagant lifestyles, and also based on the promise that they would be able to bring their families once they were established here in the United States.

The defendants in this case used fraudulently obtained J-1 visas to bring women into the United States through El Paso, TX. The visas purported to show that the women were scientists traveling to the United States to do scientific research. But once here, their immigration documents were confiscated, and these women were forced to work at local strip clubs for the benefit of the defendants who ultimately collected more than \$700,000 as a result of their criminal enterprise. These defendants were ultimately convicted and sentenced to 5 years in prison and ordered to pay more than a half million dollars in restitution to their victims.

One of the things that was brought home to me as a result of this hearing was that the same routes, the same criminal enterprises that engage in smuggling of human beings, who prey on their hopes or their desire for jobs and economic opportunity, it is the same people in many instances and the same routes and organizations that engage in illegal smuggling of human beings who want nothing more than to be able to come here and work and then send money home to their families. It is just that the ones who are the victims of this trafficking are not freed when they are brought into this country but literally kept in involuntary servitude and slavery, some approximately 16,000, we think, although the numbers have to be suspect. They have to be low because, indeed, we know the victims of this activity are reluctant to come forward because they may have come illegally into the country.

This is a persistent problem, one that touches on a larger issue, and that is, as we go forward with border security measures, to try to make sure that we protect our sovereign borders and to make sure our immigration laws are brought into modern times and the realities of our demand and indeed our reliance on labor provided by immigrants in this country. I hope we will view this as one of the terrible symptoms of a larger problem, and that is the need for us, as we establish the security of our borders, consistent with the post 9/11 world, that we also address the need to bring our immigration laws into this century. The President's call for immigration reform is part of it.

Particularly for those who are, once they are brought into this country based on promises of jobs and opportunity, but then enslaved, that we redouble our efforts to make sure we bring an end to this scourge.

I appreciate the bipartisan effort we have seen, the expressions of support

for the work that has been done across the years by this administration, by previous administrations in combating the scourge of human slavery. I commend the Justice Department in particular for tripling the number of prosecutions they have obtained in these last 3 years over the preceding 3 years. This is a fight worth fighting. These are some of the most vulnerable victims we could possibly imagine. Their punishment is well deserved.

Mr. SCHUMER. Madam President, I come to the floor to speak about a bipartisan measure; that is, the resolution Senator CORNYN and I are submitting on human trafficking. I thank my friend from Texas for working with me to address this growing problem that devastates the lives of so many.

Human trafficking is one of the most heinous crimes in our world today. Everyone knows it is a heinous crime to take a person, often a young woman, kidnap her, and put her into, basically, sexual servitude. It is an absolute abomination.

What I think most people are not aware of is the large number of people who are so enslaved. Our State Department estimates 800,000 people are trafficked across international borders each year. Some are for domestic slavery, some are for farm slavery, and many are for sexual servitude.

According to these State Department estimates, approximately three-quarters of those trafficked are female, and 70 percent of these women are trafficked for sexual exploitation. So a little quick math would indicate it is pretty close to 400,000 a year who are engaged in sexual exploitation, and you cannot be too relieved that the other half are in other kinds of slavery.

The victims are kidnapped or lured with false promises of money, and then thrown into slavery. Their captors subject their victims to forced prostitution. They are sexually assaulted sometimes 20 times a day. The lack of protection against HIV and AIDS means an effective death sentence for many sexual trafficking victims.

The victims of forced labor fare only slightly better.

In the vast majority of cases, they are worked to near death. They are routinely assaulted, sometimes killed. The truly sad fact is that at least half of the human trafficking victims are children, sometimes as young as 9 or 10 years old. The traffickers abuse the children, keep them in line by threatening to kill their parents or other family members if they don't comply. Beatings and rape are part of their everyday experience. Their lives are more horrific than many of us could even imagine. To think I am the father of two daughters, just think of your young children being put in this situation, and you can see the gravity and the horror of the situation.

Here is another thing I will bet most Americans are not aware of. We think maybe this is happening in Africa or Asia or Europe. No, it is also occurring

right here in the United States. Sixteen thousand people are trafficked into the United States every year. Most are forced into sexual slavery in our own country. I have read in newspapers in New York about how some of these rings have been exposed. It is often among immigrant groups, but we are not immune.

We have taken some important strides against this evil. In the year 2000, President Clinton signed into law the bipartisan Trafficking Victims Protection Act. This act gave law enforcement real tools to fight against sexual trafficking and the money to fund that fight. Last year I was proud to join Senator BROWNBACK as the Democratic sponsor of the Trafficking Victims Protection Reauthorization Act of 2003.

Of course, with the death of Senator Wellstone, who had been such a leader on this issue, a void has been left. I am doing my best to at least fill a little bit of it. We added new tools to fight against these traffickers and refined the tools we already had created to better serve law enforcement. We have made some strides. The laws are working. But the bottom line is, there is still a whole lot more to be done.

I am pleased to join Senator CORNYN today in sponsoring this resolution. I thank him for his important work on this issue. The resolution recognizes the fact we need more awareness of this horrible crime, particularly at the State and local level. State and local law enforcement officers are often the first point of contact with victims in trafficking in the course of their normal work. This resolution puts the Senate on record supporting efforts to educate and empower State and local law enforcement officers in identifying trafficking victims. By raising awareness at the State and local level, we can better make use of the many tools we have in this fight.

T-visas are a vital part of the fight against sex trafficking. These visas enable victims of trafficking to testify against their traffickers and help put these criminals in jail. We have had the situation where we have the victims and they are sent home, and the people who did it go free. Currently, we issue less than 2 percent of the T-visas available, and yet we know that tens of thousands of victims go without T-visas every year, condemning them to lives of abuse and terror instead of the protection they deserve and that is available under the visa.

By educating and empowering State and local law enforcement officers to recognize trafficking crimes and raising awareness of this issue, we can identify more victims and get them the help they need and, most importantly, take their traffickers off the streets. We are also calling on the States to do a close examination of their current laws to see if they are adequate in the face of the human trafficking threat.

We must make sure we are prepared to deal with this crime at all levels. We

must also make sure the victims of trafficking receive the same level of services regardless of what laws are used to prosecute their traffickers.

Far too often we find ourselves at odds with one another in the Senate. Our efforts on this issue show we can work together in a bipartisan way to protect some of the most endangered children in our world and put some of the most awful criminals behind bars. This resolution is an important step in the battle to save the lives of hundreds of thousands of women and children who are trafficked each year.

Along with Senator CORNYN, I urge my colleagues to support its immediate passage. Together, if we work hard, we can greatly and dramatically reduce this horrible crime.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I thank the Senator from New York for submitting the resolution about which he has just spoken.

Mr. LEAHY. Madam President, I am pleased to sponsor this anti-trafficking resolution with Senators CORNYN, SCHUMER, LINDSEY GRAHAM, and CLINTON, and to have worked with Senator CORNYN to emphasize the bipartisan commitment to eliminate trafficking. The resolution encourages States to join the 106th and 108th Congresses in passing legislation to combat human trafficking.

We cannot know with any certainty how many people are trafficked, but some experts estimate that nearly a million people worldwide every year are bought, sold, or trafficked, with about 16,000 of those people trafficked to the United States. These people are forced into involuntary servitude or, often, prostitution. Until recently, this issue was not a priority for governments around the world, but we are seeing signs of change, some prompted by our passage in 2000 of the bipartisan Trafficking Victims Protection Act, (TVPA) and last year's reauthorization of that law.

In 2000, I served on the conference committee for the TVPA, which passed in the House and Senate by overwhelming margins and was signed by President Clinton, whose Justice Department was intimately involved in the legislative process. This bill—on which our late colleague Senator Wellstone worked so tirelessly—signaled a bipartisan congressional commitment to the prosecution of traffickers and the protection of their victims. I am proud to have played a role in creating the law, and in reauthorizing it.

In forging the TVPA, Senators Wellstone and BROWNBACK, and Congressmen CHRISTOPHER SMITH and GEJDENSEN, sought both to eliminate trafficking at home and to make combating trafficking and slavery a foreign policy priority. We are seeing signs of progress in this area, and I believe we will see even more if States become more involved in this issue.

Combating trafficking has been a bipartisan issue. Senators and Representatives who are otherwise ideological opposites have worked together closely on anti-trafficking legislation, and the Justice Departments under both President Clinton and Bush have made it a priority to prosecute those who would deprive others of their most basic liberties. This resolution, too, provides an example of Senators from both sides of the aisle working together to further the cause of eliminating trafficking by punishing its perpetrators. I urge the Senate to pass it today.

Mr. FRIST. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 414) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 414

Whereas it has been nearly 2 centuries since the abolition of the transatlantic slave trade, and well over a century since the ratification of the 13th amendment to the Constitution of the United States;

Whereas most Americans would be shocked to learn that the institutions of slavery and involuntary servitude continue to persist today—not just around the world, but hidden in communities across the United States;

Whereas according to Federal Government estimates, approximately 800,000 human beings are bought, sold, or forced across the world's borders each year—including approximately 16,000 human beings into the United States each year—and are coerced into lives of forced labor or sexual servitude that amount to a modern-day form of slavery;

Whereas the 13th amendment to the Constitution of the United States, ratified in 1865, abolishes the institutions of slavery and involuntary servitude;

Whereas numerous provisions of chapter 77 of title 18 of the United States Code have criminalized slavery since 1909;

Whereas the late Senator Paul Wellstone joined in a bipartisan manner with Senator Sam Brownback and many other Senators and Representatives to advance legislation to strengthen those laws, leading to the enactment of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.), which was signed into law by President Bill Clinton;

Whereas Congress made further bipartisan improvements to the law when it enacted the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193), which was signed into law by President George W. Bush;

Whereas the Department of Justice, under the leadership of its Civil Rights Division, has worked during the Clinton and Bush presidencies to strengthen anti-trafficking laws and to increase its own efforts to combat human trafficking and slavery in light of those recent bipartisan enactments;

Whereas the Trafficking in Persons Office of the Department of State continues to fight human trafficking around the world;

Whereas many nongovernmental organizations have made exceptional contributions to the prevention of human trafficking and

to the care and rehabilitation of victims of human trafficking;

Whereas survivors of human trafficking crimes risk their lives and the lives of their families to assist in the investigation and prosecution of their former captors;

Whereas effective prosecution of human trafficking crimes will not be possible unless adequate protections are offered to the survivors;

Whereas the fight to eliminate human trafficking and slavery requires the involvement of State and local law enforcement officials, as well as Federal law enforcement efforts;

Whereas the enactment of comprehensive State laws criminalizing human trafficking and slavery may be necessary to ensure that Federal efforts are accompanied by robust efforts at the State and local levels;

Whereas the States of Texas, Washington, Missouri, and Florida have recently enacted comprehensive State criminal laws against human trafficking and slavery;

Whereas the Department of Justice recently announced a comprehensive model State anti-trafficking criminal statute, and encouraged States to adopt such laws, at its first "National Conference on Human Trafficking," held in Tampa, Florida; and

Whereas the Department of Justice's model State anti-trafficking criminal statute is available at the Department's website, http://www.usdoj.gov/crt/crim/model_state_law.pdf; Now, therefore, be it

Resolved, That the Senate—

(1) supports the bipartisan efforts of Congress, the Department of Justice, and State and local law enforcement officers to combat human trafficking and slavery;

(2) strongly encourages State legislatures to carefully examine the Department of Justice's model State anti-trafficking criminal statute, and to seriously consider adopting State laws combating human trafficking and slavery wherever such laws do not currently exist;

(3) strongly encourages State legislatures to carefully examine the Federal benefits and protections for victims of human trafficking and slavery contained in the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2003, and to seriously consider adopting State laws that, at a minimum, offer these explicit protections to the victims; and

(4) supports efforts to educate and empower State and local law enforcement officers in the identification of victims of human trafficking.

EXPEDITIOUS SUPREME COURT ACTION IN BLAKELY V. WASHINGTON

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. Con. Res. 130.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 130) expressing the sense of Congress that the Supreme Court of the United States should act expeditiously to resolve the confusion and inconsistency in the Federal criminal justice system caused by its decision in *Blakely v. Washington*, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HATCH. Madam President, S. Con. Res. 130 expresses the sense of Congress that the Supreme Court

should expedite consideration of the applicability of *Blakely v. United States* to the Federal Sentencing Guidelines.

As one of the original cosponsors of the Sentencing Reform Act of 1984, which created the United States Sentencing Commission, and a proponent of reducing sentencing disparity across the nation, I have a strong interest in preserving the integrity of the Federal guidelines against constitutional attack. Congress enacted the Sentencing Reform Act to reduce unwarranted disparity in Federal sentencing, including racial, geographical, and other unfair sentencing disparities by establishing standardized sentencing rules while leaving judges enough discretion to impose just sentences in appropriate cases.

As many here may already know, criminal defendants are routinely sentenced by judges who decide sentencing facts based upon a preponderance of the evidence standard. This has all changed in recent weeks. On June 24, 2004, in *Blakely v. Washington*, the Supreme Court held that any fact that increases the maximum penalty under a State statutory sentencing guidelines scheme must be presented to a jury and proved beyond a reasonable doubt even though the defendant's sentence falls below the statutory maximum sentence.

Although the Supreme Court explicitly stated in a footnote that "The Federal Guidelines are not before us, and we express no opinion on them," it also characterized the government's amicus brief as questioning whether differences between the State and Federal sentencing schemes are constitutionally significant. The ambiguity apparent in *Blakely* and the strong suggestions by the dissent that it will apply to the Federal sentencing guidelines, has understandably created angst throughout the Federal justice system.

In just 2½ weeks after the Supreme Court's decision, we already had a split among the Federal circuit courts of appeal. In addition, at least two dozen lower Federal courts—and probably many more—have ruled the Federal Sentencing Guidelines unconstitutional. Some judges disregard the Federal sentencing guidelines in their entirety. Other judges apply mitigating sentencing factors but disregard any relevant aggravating factors. Still other judges are convening juries to decide some of these sentencing facts.

In fact, as I learned when the Judiciary Committee held a hearing on this very issue just last week, in my home State of Utah, the district judges adopted four different approaches to sentencing defendants after *Blakely*.

Let me briefly describe a couple of examples of the havoc caused by this *Blakely* decision. I'm sure we all recall Dwight Watson, the man who sat in a tractor last year outside the U.S. Capitol for 47 hours and threatened to blow up the area with organophosphate bombs. The day before the *Blakely*

opinion, Mr. Watson was sentenced to a 6-year prison sentence. Less than a week after the Supreme Court's opinion, he was resentenced to 16 months, which was essentially time served. He is now a free man.

A defendant in West Virginia had an offense level that was off the sentencing charts. Although he would have been subject to a life sentence under the guidelines, the statutory maximum penalty was 20 years. He was given a 20-year sentence three days before *Blakely* was decided. A week later, his sentence was drastically reduced to 12 months. The judge did not rely on any relevant conduct or any sentencing enhancements in calculating the defendant's sentence. In other words, he only applied a portion of the sentencing guidelines—those that he thought remained valid after *Blakely*.

The concurrent resolution I introduce today urges the Supreme Court to act expeditiously to resolve whether the Federal sentencing guidelines can be constitutionally applied in light of *Blakely v. Washington*. While I wish we could have done more, unfortunately, we were unable to do so in such a short period of time.

As we go forward, I believe we should adopt legislation that would render the Federal sentencing guidelines constitutional regardless of whether *Blakely* applies. Unfortunately, while I have worked diligently with my colleagues on both sides of the aisle and in both Houses, we simply just ran out of time. While I hope that the Supreme Court will find application of the Federal sentencing guidelines constitutional under the 6th Amendment, I will continue to work with my colleagues over the next several months in preparation of a contingency plan to ensure that regardless of what the Supreme Court decides, that we will be able to preserve a system that promotes uniformity and reduces sentencing disparity across this country.

Mr. LEAHY. Mr. President, the Supreme Court's decision last month in *Blakely v. Washington* has raised significant concerns about the validity of the Federal sentencing guidelines. *Blakely* held that sentencing procedures used by the State of Washington violated the defendant's constitutional right to a jury trial because they allowed the judge to impose an enhanced sentence based on facts that were neither found by a jury nor admitted by the defendant.

Within days of this decision, a split developed among the Federal district and circuit courts regarding the applicability of *Blakely* to the Federal Sentencing Guidelines, and one circuit court invoked a rarely used procedural mechanism to certify the question to the Supreme Court. Lower Federal courts continue to reach inconsistent positions on *Blakely* issues on virtually a daily basis. By all accounts, the confusion and uncertainty is frustrating the orderly administration of justice in courts across the country.